

Report of Investigation (27 April 2018)
NIGHTS Case #201602785

1. Investigators, Identifying Information, Location of Working Papers:

a. (b)(6), (b)(7)(c), Investigator, Office of the Inspector General, U.S. Fleet Forces Command, Telephone: (b)(6) or DSN (b)(6), e-mail: (b)(6), (b)(7)(c)

b. (b)(6), (b)(7)(c), Investigator, Office of the Inspector General, U.S. Fleet Forces Command, Telephone: (b)(6) or DSN (b)(6), e-mail: (b)(6), (b)(7)(c)

c. Location of Working Papers: Naval Inspector General Hotline Tracking System, Naval Inspector General, Washington Navy Yard, DC

d. Security Classification: UNCLASSIFIED

2. Background and Summary

The U. S. Fleet Forces Inspector General (USFF IG) conducted this investigation in response to multiple allegations of wrongdoing aboard United States Naval Ship (USNS) SACAGAWEA. Two known complainants initially contacted the Military Sealift Command Inspector General (MSC IG) and were assigned NIGHTS case numbers 201602785 and 201602997, respectfully. These cases have been combined under NIGHTS case #201602785. Additionally, separate allegations of criminal activity were forwarded to the Naval Criminal Investigative Service under NIGHTS case #201603019.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, inappropriately disposed of U.S. Government property, a violation of Title 41 C.F.R. § 102-36.305 (May we abandon or destroy excess personal property without reporting it to GSA?) is **substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, misused SACAGAWEA crew members time by instructing them to gather U.S. Government property for the purpose of delivering this property to a village located in the Philippines, a violation of Title 5 C.F.R. § 2635.705(b) (Use of official time) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, attempted to coerce a subordinate to falsify a monetary personnel award document for his own financial gain, a violation of 5 C.F.R. § 2635.702 (Use of public office for private gain) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to report an alleged sexual assault incident, a violation of OPNAVINST 1752.1B (Navy Sexual Assault Prevention and Response (SAPR) Program) is **substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, improperly allowed a subordinate to work overtime, a violation of Civilian Marine Personnel Instruction (CMPI) 610 (Hours of Work and Premium Pay) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, fraudulently certified overtime, a violation of DoD 7000.14-R (DoD Financial Management Regulation), Volume 8, Civilian Pay Policy and Procedures, Chapter 2, Time and Attendance 020201-020202 is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to report an alleged sexual harassment incident, a violation of SECNAVINST 5300.26D (Department of the Navy (DON) Policy of Sexual Harassment) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to report a “near miss” involving galley equipment, a violation of MISHAP Investigation, Injury, and Illness Recording and Reporting manual is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, engaged in an inappropriate interpersonal relationship with a subordinate, a violation of MSFSCINST 12710.1 (Military Sealift Fleet Support Command Interpersonal Relationship Policy for Civilian Mariners) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, gave crewmembers inappropriate nicknames, a violation of the U. S. Equal Employment Opportunity Commission Notice 915.002 (Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, exposed his genitalia to a female crewmember, thereby creating a sexual harassment incident, a violation of SECNAVINST 5300.26D (Department of the Navy (DON) Policy on Sexual Harassment) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, instructed a subordinate crew member time to cut his hair in his stateroom during the duty day, a violation of Title 5 C.F.R. § 2635.705(b) (Use of official time) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, engaged in gender discrimination, a violation of OPNAVINST 5354.1F (Navy Equal Opportunity Policy) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to conduct appropriate food operation inspections, a violation of COMSCINST 6000.1E (Military Sealift Command Medical Manual) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, stored pornographic material on a U.S. Navy computer device, a violation of GENADMIN MSG 031648Z Oct 11, DON CIO Acceptable Use Policy for Department of the Navy (DON) Information Technology (IT) Resources is **substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, improperly brought a frozen tuna into the U.S. territorial waters of Hawaii aboard the SACAGAWEA, a violation of Title 9 C.F.R. § 94.11 (Restrictions of importation of meat and other animal products from specified regions) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to ensure a minimum of two-way separation of functions when using his assigned Government Commercial Purchase Card, a violation of NAVSUPINST 4200.94 (Dept of Navy Policies and Procedures for the Implementation of Governmentwide Commercial Purchase Card Program (GCPC)) is **not substantiated**.

The allegation that (b)(6), (b)(7)(c) failed to ensure a minimum of two-way separation of functions when using his assigned Government Commercial Purchase Card, a violation of NAVSUPINST 4200.94 (Dept of Navy Policies and Procedures for the Implementation of Governmentwide Commercial Purchase Card Program (GCPC)) is **not substantiated**.

Emerging Allegations:

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, split a purchase into multiple small value purchases in order to procure supplies under the micro-purchase threshold¹, a violation of the Federal Acquisition Regulation is **substantiated**.

The allegation that (b)(6), (b)(7)(c) USNS SACAGAWEA, utilized his Government Commercial Purchase Card to inappropriately purchase materials, a violation of NAVSUPINST 4200.99C (Department of the Navy Government-Wide Commercial Purchase Card Program Policy) is **substantiated**.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, utilized his Government Commercial Purchase Card to inappropriately purchase materials, a violation of NAVSUPINST 4200.99C (Department of the Navy Government-Wide Commercial Purchase Card Program Policy) is **substantiated**.

¹ "Micro-purchase" means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold of \$3,500.

The allegation that (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to change the combination to the controlled substances safe, a violation of COMSCINST 6000.1E (MILITARY SEALIFT COMMAND MEDICAL MANUAL) is **substantiated**.

3. Allegations

Allegation 1: That on 2 April 2016, (b)(6), (b)(7)(c), USNS SACAGAWEA, inappropriately disposed of U.S. Government property, a violation of Title 41 C.F.R. § 102-36.305 (May we abandon or destroy excess personal property without reporting it to GSA?).

Standard:

Title 41 CFR § 102-36.305 (May we abandon or destroy excess personal property without reporting it to GSA?)

Yes, you may abandon or destroy excess personal property when you have made a written determination that the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale. An item has no commercial value when it has neither utility nor monetary value (either as an item or as scrap)

Analysis and Finding:

(b)(6), (b)(7)(c) alleges that (b)(6), (b)(7)(c) disposed of U.S. Government property, specifically mattresses and tents, to a local Philippine village. (b)(6), (b)(7)(c) testified that the mattresses were in fine working order when donated, having been replaced in 2014. (b)(6), (b)(7)(c) further testified that she witnessed a large tent, which she believed to be SACAGAWEA property, at a local village when she accompanied (b)(6), (b)(7)(c) on a visit to the area.

In his 22 March 2017 interview with USFF IG, (b)(6), (b)(7)(c) testified that he had unserviceable mattresses off-loaded from SACAGAWEA while at anchor in Subic Bay, Philippines and believed the mattresses would be delivered to the poor populace in the area.

(b)(6), (b)(7)(c) testified that disposing of the mattresses in this manner was consistent with prior Community Relations (COMREL's) missions that he had supported in the past with the WESTPAC chaplain, but had no paperwork specifically discussing the donation of the mattresses. A review of documents onboard SACAGAWEA did not reveal documents specifically related to the disposition of the mattresses. (b)(6), (b)(7)(c) evaluation of the mattresses being unserviceable was verified by (b)(6), (b)(7)(c) then the (b)(6), (b)(7)(c) of the SACAGAWEA who testified that the mattresses in question were not serviceable, beyond their service life, and that their continued use would have resulted in a union grievance. In his initial testimony, (b)(6), (b)(7)(c) stated that he had not seen a tent aboard SACAGAWEA in the two years

he'd been assigned to the vessel. In a subsequent email, (b)(6), (b)(7)(c) notified USFF IG that the tent in question had been located aboard SACAGAWEA.

USFF IG made contact with (b)(6), (b)(7)(c), who provided the applicable COMRELS instructions mentioned by (b)(6), (b)(7)(c). The instruction, as related to COMRELS, did not provide guidance for the disposal of U. S. Government property.

On 10 April 2018, (b)(6), (b)(7)(c) was provided a Tentative Conclusion Letter, a redacted draft Report of Investigation, and a transcript of his testimony; (b)(6), (b)(7)(c) was offered 10 business days to provide comment. On 24 April 2018, (b)(6), (b)(7)(c) provided a response through his union representative, (b)(6), (b)(7)(c).

(b)(6), (b)(7)(c) wrote that (b)(6), (b)(7)(c) clearly stated that there were emails that would substantiate that he communicated with MSC approving officials regarding the disposal of mattresses. (b)(6), (b)(7)(c) did provide USFF IG the email he spoke of during his interview. In this email, (b)(6), (b)(7)(c) wrote, *"Attached is the email discussed during the disposition regarding contacts in the Philippines for community relations. I don't want the commander to believe I was operating without the counsel of those in the know going rogue."* The attached email provided did confirm that (b)(6), (b)(7)(c) spoke with the (b)(6), (b)(7)(c) who provided an email introduction to individuals in the Subic Bay area who support COMRELS; this email did not however establish that a determination regarding the property's commercial value, or the estimated cost of its continued care and handling, had been made as required by Title 41 CFR § 102-36.305.

Additionally, (b)(6), (b)(7)(c) offered a September 2017 email string between the (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) aboard USNS JOHN ERICSSON (b)(6), (b)(7)(c) follow-on ship) and a (b)(6), (b)(7)(c) (b)(6) at the Naval Supply Systems Command Fleet Logistics Center Sasebo as evidence that it has been common practice for decades to dispose of mattresses. While offered as proof of a common practice, this email string does not provide the required determination for the mattresses disposed of aboard SACAGAWEA, and therefore does not address the regulatory requirement established in Title 41 CFR § 102-36.305.

After considering (b)(6), (b)(7)(c) response on behalf of (b)(6), (b)(7)(c), USFF IG finds the preponderance of the evidence reveals (b)(6), (b)(7)(c) directed that U.S. Government property be disposed of in Subic Bay, Philippines without completing the appropriate regulatory paperwork. (b)(6), (b)(7)(c) failed to make a written determination that the mattresses were of "no commercial value" in accordance with Title 41 CFR § 102-36.305 prior to disposing of them. (b)(6), (b)(7)(c) was required to have a written determination that the mattresses have no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale. While testimonial evidence supports (b)(6), (b)(7)(c) assertion that the mattresses were unserviceable, (b)(6), (b)(7)(c) own testimony reveals that

he failed to receive the appropriate permissions to dispose of the mattresses in an appropriate manner. Accordingly, the allegation that (b)(6), (b)(7)(c) inappropriately disposed of U.S. Government property, a violation of Title 41 CFR § 102-36.305 (May we abandon or destroy excess personal property without reporting it to GSA?) is **substantiated**.

Recommendation: COMSC take appropriate action as deemed necessary.

Allegation 2: That on numerous occasions between 2014 and 2015, (b)(6), (b)(7)(c), (b)(6), (b)(7)(c) USNS SACAGAWEA, misused SACAGAWEA crew members time by instructing them to gather U.S. Government property for the purpose of delivering this property to a village located in the Philippines, a violation of Title 5 C.F.R. § 2635.705(b) (Use of official time).

Standard:

Title 5 C.F.R. § 2635.705 (Use of Official Time)

(b) *Use of a subordinate's time.* An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

Analysis and Finding:

(b)(6), (b)(7)(c) alleges that (b)(6), (b)(7)(c) instructed subordinate SACAGAWEA crewmembers, specifically U.S. Marines and personnel from the Deck and Supply Departments, to gather supplies to be transferred to a local Philippine village; a task (b)(6) alleged was outside the performance of the crewmember's official duties. Specifically, (b)(6), (b)(7)(c) alleged that (b)(6) instructed SACAGAWEA crew members to collect food supplies, electronics, exercise equipment, and mattresses.

In response to this allegation, USFF IG interviewed three members of the Supply Department (b)(6), (b)(7)(c) as well as the (b)(6), (b)(7)(c). All three members of the Supply Department testified that they had not been asked, nor were they aware of rumors regarding crew members being asked to gather supplies for (b)(6), (b)(7)(c). (b)(6), (b)(7)(c), who at the time the mattresses were off loaded served as (b)(6), (b)(7)(c) and was responsible for all material coming on and going off SACAGAWEA, testified that he and approximately five SACAGAWEA crew members off-loaded mattresses and used water jugs to the liberty boat while at anchor in the Philippines. (b)(6), (b)(7)(c) testified that U. S. Marines were present at the time but did not assist in the off-loading.

During his interview with USFF IG, (b)(6), (b)(7)(c) testified that he did ask SACAGAWAEA crewmembers to set aside discarded Styrofoam coolers, five-gallon plastic containers, and cardboard boxes (in lieu of throwing them away) so that he could give these items to some of the local Philippine nationals to use for storing water or ice. (b)(6), (b)(7)(c)

further testified that he did not utilize MSC personnel to remove government property, rather a Marine offered his marines to accomplish the task.

While (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) statements contradict one another as to who off-loaded the mattresses, the off-loading action itself would not be considered misuse of government personnel as the mattresses and discarded coolers and plastic jugs were considered trash and would have been off-loaded within the scope of duties assigned to deck personnel. The preponderance of the evidence reveals that (b)(6), (b)(7)(c) appropriately utilized SACAGAWEA crew members to off-load materials while in the Philippines. Accordingly, the allegation that (b)(6), (b)(7)(c) misused SACAGAWEA crew members time by instructing them to gather U.S. Government property for the purpose of delivering this property to a village located in the Philippines, a violation of Title 5 C.F.R. § 2635.705(b) (Use of official time) is **not substantiated**.

Recommendation: N/A

Allegation 3: That on or about 12 January 2016, (b)(6), (b)(7)(c), USNS SACAGAWEA, attempted to coerce a subordinate to falsify a monetary personnel award document for his own financial gain, a violation of 5 C.F.R. § 2635.702 (Use of public office for private gain).

Standard:

Title 5 C.F.R. § 2635.702 (Use of public office for private gain)

An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations. The specific prohibitions set forth in paragraphs (a) through (d) of this section apply to this general standard, but are not intended to be exclusive or to limit the application of this section.

(a) *Inducement or coercion of benefits.* An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

Analysis and Finding:

In an email to the MSC IG, (b)(6), (b)(7)(c) alleges that (b)(6), (b)(7)(c) instructed her to submit a monetary award in the name of one of her subordinates so they could each take a portion of the award. (b)(6), (b)(7)(c) alleges that of the monetary award, she was to receive \$1,000 with each of

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her nine subordinates receiving \$400. In the same email, (b)(6), (b)(7)(c) stated she did not submit the award.

(b)(6), (b)(7)(c) submitted this email to USFF IG as the evidence of what (b)(6) perceived as a “kickback.” In this email from (b)(6), (b)(7)(c) to (b)(6), (b)(7)(c), dated 3 January 2015, (b)(6), (b)(7)(c) wrote, “*This is an example, use this form. \$600 your staff, \$1250 yourself.*” The attached form was a “Special Act or Service” award nomination submitted for \$1,000 which detailed the CIVMAR’s actions that saved the U. S. Government upward of \$100,000.

In an interview with USFF IG, (b)(6), (b)(7)(c) was asked if he had instructed (b)(6), (b)(7)(c) to submit a monetary award with the intention of receiving a kickback. In response to this question, (b)(6), (b)(7)(c) son stated that he had never done something like that during his career. Additionally, (b)(6), (b)(7)(c) testified that requests for awards are submitted to an MSC mailbox (MSC_EMP_Benefits@navy.mil) and that he no longer had any control once it was submitted. (b)(6), (b)(7)(c) further stated that monetary awards are included in the civilian mariner’s paycheck and that he has no visibility if a monetary award has been paid. Additionally, (b)(6), (b)(7)(c) testified that spot awards hadn’t been paid in cash to the civilian mariner for the last three or four years. USFF IG confirmed with the MSC Finance Office that (b)(6), (b)(7)(c) would not have been able to receive a monetary “kick back” in the nature that was alleged, as (b)(6), (b)(7)(c) does not have access to cash for this purpose. The MSC Finance Office stated that all monetary awards must be properly documented prior to submission, with monetary awards processed through the Defense Finance Accounting System (DFAS) and deposited directly into the paycheck of the awardee.

While (b)(6), (b)(7)(c) alleges (b)(6), (b)(7)(c) was attempting to elicit a “kickback” scheme, she was unable to provide any documentation to support this claim; rather, (b)(6), (b)(7)(c) was only able to provide an email from (b)(6), (b)(7)(c) with guidance on how to request an award for herself and her staff. Accordingly, the allegation that (b)(6), (b)(7)(c) attempted to coerce a subordinate to falsify a monetary personnel award document for his own financial gain, a violation of 5 C.F.R. § 2635.702 (Use of public office for private gain) is **not substantiated**.

Recommendation: N/A

Allegation 4: That in January 2014, (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to report an alleged sexual assault, a violation of OPNAVINST 1752.1B (Navy Sexual Assault Prevention and Response (SAPR) Program).

Standard:

OPNAVINST 1752.1B (Navy Sexual Assault Prevention and Response (SAPR) Program)

8. Action. Commanders and commanding officers (COs) will implement and support the SAVI program through:

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c. Accountability. Commanders shall ensure:

(1) Swift, sensitive and fair response to sexual assault allegations, and when appropriate, prosecution of sexual assault cases.

(2) All allegations of sexual assault within their ranks are referred, as soon as practicable, to NAVCRIMINVSVC. Internal command inquiry or investigation shall be reserved only for incidents of alleged sexual assault for which NAVCRIMINVSVC or civilian law enforcement has declined to investigate. Commanders shall ensure that all levels of command authority, including command duty watch standers, are advised of and adhere to this requirement.

d. Data Collection and Reporting. Commanders and COs will ensure:

(1) All unrestricted reports of alleged sexual assault that involve victims and alleged offenders who are family members, active duty members, or Reservists on active duty will be reported regardless of the military affiliation of the victim or alleged offender. Reports of allegations of active duty members of another Service assigned to a Navy command, regardless of location are also required. Submit reports via the OPREP-3 NAVY BLUE or OPREP-3 NAVY UNIT SITREP, per the format for reporting sexual assault incidents contained in reference (1) Include in the SITREP the data elements contained in NAVPERS 1752/1, Sexual Assault Incident Data Collection Report Form (appendix A of enclosure (2) to reference (c)) per the following guidelines:

(a) Messages must also be submitted on incidents involving civilians sexually assaulted on property under DON jurisdiction. Per reference (1) requirements, reporting commands for both victim and alleged offender will coordinate efforts for submission.

Analysis and Finding:

In her initial written complaint, (b)(6), (b)(7)(c) alleged that a female civilian mariner aboard SACAGAWEA had been sexually assaulted by a fellow SACAGAWEA crew member. During a subsequent follow-up interview with USFF IG, (b)(6), (b)(7)(c) testified that in January 2014, (b)(6), (b)(7)(c), a male SACAGAWEA crew member, allegedly sexually assaulted (b)(6), (b)(7)(c) a female SACAGAWEA crew member, while ashore in Sasebo, Japan. (b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) reported this alleged assault to the (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) and that they both went to see (b)(6), (b)(7)(c). (b)(6), (b)(7)(c) further testified that she informed (b)(6), (b)(7)(c) of (b)(6), (b)(7)(c) desire to file a formal complaint, and of the need to report the incident to NCIS.

In his 22 March 2017 interview with USFF IG, (b)(6), (b)(7)(c) was asked if he had been informed that a crew member by the name of (b)(6), (b)(7)(c) had been allegedly sexually assaulted by a fellow crew member while ashore in Sasebo. In response to this question, (b)(6), (b)(7)(c)

(b)(6) stated, *“That’s a big negative.”* Additionally, (b)(6) did offer that he had heard that there were issues between (b)(6) and (b)(6) ashore in Sasebo, but that he never heard it was a sexual assault. (b)(6) did however state that he provided (b)(6) with Civilian Employee Assistance Program² (CEAP) counseling material and told her, *“Listen, if there’s something that occurred that you feel you want to discuss outside the ship with someone, here are the numbers.”* Additionally, (b)(6), (b)(7)(c) stated that he told (b)(6), (b)(7)(c) *“In Sasebo, they’ve got really great chaplains there. Feel free to go over there and talk to them and discuss anything that you feel you need to discuss with them.”*

On 24 March 2017, USFF IG interviewed (b)(6), (b)(7)(c), USNS SACAGAWEA. (b)(6), (b)(7)(c) initially testified that he was present when (b)(6), (b)(7)(c) informed (b)(6), (b)(7)(c) that she had been sexually assaulted while ashore in Sasebo by (b)(6), (b)(7)(c). However, later in this same interview, (b)(6), (b)(7)(c) stated that he was unable to recall whether (b)(6), (b)(7)(c) informed (b)(6), (b)(7)(c) of the sexual assault, owing to the length of time between the conversation and interview.

In her 19 April 2017 interview with USFF IG, (b)(6), (b)(7)(c) testified that she initially informed (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) about the alleged sexual assault incident in Sasebo and believed (b)(6), (b)(7)(c) relayed this information to (b)(6), (b)(7)(c). (b)(6), (b)(7)(c) further testified that (b)(6), (b)(7)(c) engaged her in conversation about the alleged sexual assault, asking if she wished to pursue charges; (b)(6), (b)(7)(c) testified that she told (b)(6), (b)(7)(c) that she did not wish to move forward with pressing charges. (b)(6), (b)(7)(c) further stated she recalls (b)(6), (b)(7)(c) didn’t want any issues leaving the ship due to the negative light it would bring.

On 4 May 2017, USFF IG interviewed (b)(6), (b)(7)(c) who was assigned to the SACAGAWEA as (b)(6), (b)(7)(c) during February 2014. (b)(6), (b)(7)(c) testified that he was called to (b)(6), (b)(7)(c) office to discuss a possible sexual assault and they would need to speak with (b)(6), (b)(7)(c) to explain her rights and how to proceed. (b)(6), (b)(7)(c) states that he, along with (b)(6), (b)(7)(c) were present when (b)(6), (b)(7)(c) spoke with (b)(6), (b)(7)(c) about the alleged sexual assault. (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) gave (b)(6), (b)(7)(c) ample opportunity to file a formal sexual assault complaint, and that he in no way tried to discourage (b)(6), (b)(7)(c) from pursuing a sexual assault claim. (b)(6), (b)(7)(c) further testified that (b)(6), (b)(7)(c) chose not to file a formal sexual assault complaint. A check with MSC EEO, the office responsible for receiving reports of sexual assault, revealed that the SACAGAWEA did not report a sexual assault incident during the identified timeframe to either SAPR personnel in Japan or MSC HQ.

² Civilian Employee Assistance Program (CEAP): CEAP is a Department of the Navy (DON) program designed to offer DON civilians with confidential counseling and referrals for issues related to job related difficulties, substance abuse, financial concerns, medical problems, child/elder care needs, emotional problems, stress, and marital/family issues.

On 10 April 2018, (b)(6), (b)(7)(c) was provided a Tentative Conclusion Letter, a redacted draft Report of Investigation, and a transcript of his testimony; (b)(6), (b)(7)(c) was offered 10 business days to provide comment. On 24 April 2018, (b)(6), (b)(7)(c) provided a response through his union representative, (b)(6), (b)(7)(c).

In this response, (b)(6), (b)(7)(c) restated (b)(6), (b)(7)(c) testimony that he did not speak with (b)(6), (b)(7)(c) regarding the alleged sexual assault incident and that false testimony was provided by a witness who was not present at the time of the alleged conversation. USFF IG interviewed three witnesses (b)(6), (b)(7)(c) regarding the meeting between (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c). (b)(6), (b)(7)(c) initially testified that he was present when (b)(6), (b)(7)(c) informed (b)(6), (b)(7)(c) that she had been sexually assaulted, but later stated that he was unable to recall whether (b)(6), (b)(7)(c) informed (b)(6), (b)(7)(c) of the sexual assault, owing to the length of time between the conversation and interview; as such USFF IG determined (b)(6), (b)(7)(c) testimony to be inconclusive. Both (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) spoke with (b)(6), (b)(7)(c) about the alleged sexual assault; USFF IG found the testimony provided by both (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) to be credible.

After considering (b)(6), (b)(7)(c) response on behalf of (b)(6), (b)(7)(c), USFF IG finds the preponderance of the evidence reveals that (b)(6), (b)(7)(c) did in fact speak with (b)(6), (b)(7)(c) regarding the alleged February 2014 sexual assault incident. Testimonial evidence reveals that (b)(6), (b)(7)(c) discussed sexual assault reporting procedures with (b)(6), (b)(7)(c), but that (b)(6), (b)(7)(c) ultimately chose not to pursue a formal complaint. Regardless of (b)(6), (b)(7)(c) decision not to pursue a formal complaint, (b)(6), (b)(7)(c) was not authorized to receive a restricted sexual assault report, and therefore had no latitude regarding reporting requirements and should have reported the sexual assault incident via an OPREP-3. Accordingly, the allegation that (b)(6), (b)(7)(c) failed to report an alleged sexual assault incident, a violation of OPNAVINST 1752.1B (Navy Sexual Assault Prevention and Response (SAPR) Program) is **substantiated**.

Recommendation: COMSC take appropriate action as deemed necessary.

Allegation 5: That in February 2015, (b)(6), (b)(7)(c), USNS SACAGAWEA, improperly allowed a subordinate to work overtime, a violation of Civilian Marine Personnel Instruction (CMPI) 610 (Hours of Work and Premium Pay).

Standard:

Civilian Marine Personnel Instruction (CMPI) 610 (Hours of Work and Premium Pay)

4-1. ASSIGNMENT TO HOURS OF WORK

2. Dayworker. At sea or in port, CIVMARs not assigned to a watch, are assigned to work during eight (8) hours of duty between 0800 and 1700, Monday through Friday. Normally, the hours of work shall be 0800-1200 and 1300-1700.

Analysis and Finding:

(b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c), as a Dayworker, was not allowed to accrue overtime and that her hours were 0800 to 1700. (b)(6), (b)(7)(c) further testified that (b)(6), (b)(7)(c) had been temporarily assigned to conduct a supply inventory and that she was submitting (b)(6), (b)(7)(c) for overtime pay from 0500 to 0800.

In her interview with USFF IG, (b)(6), (b)(7)(c) testified that she had been assigned to conduct a supply inventory and that she would start her day at 0530 and work overtime until 0800, at which time she would adjust her time to reflect regular pay between the hours of 0800 to 1700 with additional overtime at the conclusion of her regular work day.

In his interview with USFF IG, (b)(6), (b)(7)(c) testified that, as (b)(6), (b)(7)(c) he has the discretion to move personnel as required for mission accomplishment, and he believed (b)(6), (b)(7)(c) was a good candidate to assist in conducting an inventory of the supply spaces, due to her college education and phenomenal performance while assigned to the Officer's Mess.

The Civilian Marine Personnel Instruction (CMPI) 610 (Hours of Work and Premium Pay) defines Dayworkers as personnel assigned to work eight hours of duty between 0800 and 1700, Monday through Friday. However, CMPI 610 also allows Master's discretion for the "*change or substitution of assigned hours of work will be subject to prior approval by the Master...*" Further review of CMPI 610 (Section 4-1 Assignment to Hours of Work) reveals (b)(6), (b)(7)(c) has the regulatory authority to determine the specific hours of work to be assigned to CIVMAR personnel. The preponderance of the evidence reveals (b)(6) had the authority as the SACAGWEA Master to adjust (b)(6), (b)(7)(c) hours. Accordingly, the allegation that (b)(6), (b)(7)(c) inappropriately allowed a subordinate to work overtime, a violation of the Civilian Marine Personnel Instruction (CMPI) 610 (Hours of Work and Premium Pay), is **not substantiated**.

Recommendation: N/A

Allegation 6: That in June 2015, (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to report an alleged sexual harassment incident, a violation of SECNAVINST 5300.26D (Department of the Navy (DON) Policy on Sexual Harassment).

Standards:

SECNAVINST 5300.26D (Department of the Navy (DON) Policy on Sexual Harassment)

6. Policy. The DON is committed to maintaining a work environment free from unlawful discriminatory practices and inappropriate behavior. In support of this commitment, it is

DON policy that:

e. All reported incidents of sexual harassment shall be investigated and resolved at the lowest appropriate level. The nature of the investigation will depend upon the particular facts and circumstances and may consist of an informal inquiry where that action is sufficient to resolve factual issues. All incidents shall be resolved promptly and with sensitivity. Confidentiality will be maintained to the extent possible. For civilian employees, confidentiality is guaranteed during the informal stage of a discrimination complaint, if requested. Feedback will be provided to all affected individuals consistent with the requirements of the Privacy Act, Freedom of Information Act, and other pertinent laws, regulations and negotiated agreements. Both the complainant and the subject(s) of a complaint may appeal administrative findings (references (a) and (g) apply for military, reference (h) applies to civilian employees).

Analysis and Finding:

(b)(6), (b)(7)(c) alleges that she informed (b)(6), (b)(7)(c) that (b)(6), (b)(7)(c), (b)(6), (b)(7)(c) would wear shorts without underwear and would open his legs when she entered the Officer's Mess so that his scrotum would hang out the side of his shorts; (b)(6), (b)(7)(c) believed that he only did this when she was present.

On 21 December 2016, USFF IG interviewed (b)(6), (b)(7)(c), who performed food service duties in the Officer's Mess. (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) coveralls had holes in them through which his underwear was at times visible, but stated that she believed the underwear exposure was unintentional and had never observed (b)(6), (b)(7)(c) expose his genitalia. (b)(6), (b)(7)(c), who at the time of these alleged issues was a friend of (b)(6), (b)(7)(c), stated that she believed (b)(6), (b)(7)(c) spoke with (b)(6), (b)(7)(c) about the underwear being visible through (b)(6), (b)(7)(c) coveralls, asking him to instruct (b)(6), (b)(7)(c) to cover himself. (b)(6), (b)(7)(c) further testified that (b)(6), (b)(7)(c) told her that (b)(6), (b)(7)(c) "underwear or something" were showing through his coveralls. It was (b)(6), (b)(7)(c) belief that (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) did not like each other and that they were out to get each other.

On 22 March 2017, Captain Dickerson testified that (b)(6), (b)(7)(c) never informed him that (b)(6), (b)(7)(c) was exposing his genitalia, rather he testified that (b)(6), (b)(7)(c) informed him that she didn't like the fact that (b)(6), (b)(7)(c) didn't zip his coveralls all the way up. (b)(6), (b)(7)(c) did acknowledge that (b)(6), (b)(7)(c) coveralls were in a state of disrepair, and that he informed (b)(6), (b)(7)(c) that new coveralls were available. (b)(6), (b)(7)(c) further testified that (b)(6), (b)(7)(c) wore gym shorts under his coveralls and that he never witnessed him expose himself.

On 24 March 2017, (b)(6), (b)(7)(c), the current SACAGAWEA (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) direct supervisor, testified that he heard through the "rumor mill" that (b)(6), (b)(7)(c)

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would sit on the bench and, due to wearing baggy shorts without underwear, his genitalia would be exposed. (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) claimed (b)(6), (b)(7)(c) had exposed himself while (b)(6), (b)(7)(c) was (b)(6), (b)(7)(c) and that he had taken no action to correct the issue. (b)(6), (b)(7)(c) testified that he had never witnessed (b)(6), (b)(7)(c) expose himself.

On 21 April 2017, (b)(6), (b)(7)(c) testified that when he first arrived aboard SACAGAWEA, (b)(6), (b)(7)(c) made a comment about (b)(6), (b)(7)(c) exposing himself through a hole in his coveralls pocket. (b)(6), (b)(7)(c) explained that the coveralls have a pocket with a manufactured hole that allows the wearer to access clothing underneath the coveralls. (b)(6), (b)(7)(c) stated that he was told that when (b)(6), (b)(7)(c) sits down or stands up that the pocket flexes in such a way that skin was visible. (b)(6), (b)(7)(c), who ate daily in the Officer's Mess with (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) would not wear a shirt underneath his coveralls, and that he had seen (b)(6), (b)(7)(c) with his coveralls unzipped but was aware that (b)(6), (b)(7)(c) was wearing a pair of shorts. (b)(6), (b)(7)(c) stated that he'd never seen (b)(6), (b)(7)(c) expose his genitalia, only his stomach when his coveralls had been unzipped.

On 24 March 2017, (b)(6), (b)(7)(c) testified that he wears either dark blue or grey coveralls that may have a few rips or frays, but none that would lead to him exposing himself. (b)(6), (b)(7)(c) further testified that he had not exposed himself purposely or inadvertently to any crew member in his 27 years of employment with MSC.

Although (b)(6), (b)(7)(c) alleged (b)(6), (b)(7)(c) exposed himself in her IG complaint, a review of documents and witness statements show (b)(6), (b)(7)(c) only informed (b)(6), (b)(7)(c) that (b)(6), (b)(7)(c) had holes in his coveralls and that his undergarments were visible. Testimonial evidence reveals that (b)(6), (b)(7)(c) addressed the issue with (b)(6), (b)(7)(c), handling the situation at the lowest level in accordance with SECNAVINST 5300.26D. The preponderance of the evidence reveals that (b)(6), (b)(7)(c) spoke with (b)(6), (b)(7)(c) about procuring new coveralls, which would be sufficient to resolve factual issues and satisfy (b)(6), (b)(7)(c) responsibilities to address (b)(6), (b)(7)(c) complaint as directed by SECNAVINST 5300.26D. While it is clear (b)(6), (b)(7)(c) wore coveralls that were in a state of disrepair which lead to his shorts being exposed, three officers and one female steward all testified they never witnessed (b)(6), (b)(7)(c) expose himself. Additionally, (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) each testified that (b)(6), (b)(7)(c) only spoke to them about (b)(6), (b)(7)(c) underwear being exposed through holes in his coveralls. Accordingly, the allegation that (b)(6), (b)(7)(c) failed to address an allegation of sexual harassment, a violation of SECNAVINST 5300.26D (Department of the Navy (DON) Policy on Sexual Harassment) is **not substantiated**.

Recommendation: N/A

Allegation 7: That (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to report a "near miss" involving galley equipment, a violation of MISHAP Investigation, Injury, and Illness Recording and Reporting manual.

Standard:

MISHAP Investigation, Injury and Illness Recording and Reporting

6.8 Near Miss: An unplanned event that did not result in injury, illness, or damage – but had the potential to do so. Only a fortunate break in the chain of events prevented an injury, fatality or damage.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) failed to take action when informed of a pinhole steam leak in a copper kettle near an electrical box, an issue she characterized as a “near miss.” Upon further clarification, (b)(6), (b)(7)(c) testified that she believed there was a reporting requirement, but admitted that she did not know in what manner this was to be accomplished. A review of applicable instructions found that a “near miss” as alleged by (b)(6), (b)(7)(c) is defined as, “An unplanned event that did not result in injury, illness, or damage – but had the potential to do so. Only a fortunate break in the chain of events prevented an injury, fatality or damage.” USFF IG consulted with the MSC Safety Office and relayed the allegation as described by (b)(6), (b)(7)(c). It was the Safety Office’s opinion that the allegation as alleged by (b)(6), (b)(7)(c) did not meet the threshold to be reported as a “near miss” as defined in the MSC MISHAP Investigation, Injury and Illness Recording and Reporting manual. Accordingly, the allegation that (b)(6), (b)(7)(c) failed to take action in response to a “near miss,” a violation of MISHAP Investigation, Injury, and Illness Recording and Reporting manual is **not substantiated**.

Recommendation: N/A

Allegation 8: That on an unknown date, (b)(6), (b)(7)(c), USNS SACAGAWEA, engaged in an inappropriate interpersonal relationship with a subordinate, a violation of MSFSCINST 12710.1 (Military Sealift Fleet Support Command Interpersonal Relationship Policy for Civilian Mariners).

Standard:

MSFSCINST 12710.1 (Military Sealift Fleet Support Command Interpersonal Relationship Policy for Civilian Mariners)

3. Policy. References (a) through (d) provide specific guidance on acceptable conduct and interpersonal interaction. MSFSC and Navy policy is that the relationships involving shipboard personnel must not interfere with or undermine good order and discipline and proper authority aboard ship. In addition, relationships which result in or give the appearance of favoritism, preferential treatment, or personal gain are to be avoided. Relationships, between a supervisor and subordinate, in the same chain of command violate both of these precepts and are prohibited. Sexual harassment, sexual assault, and abusive, insulting, or obscene language directed to or

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about other personnel are unacceptable and will not be tolerated. Failure to comply with any of these rules is cause for disciplinary action.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) engaged in an inappropriate relationship with (b)(6), (b)(7)(c) in that he alleges he witnessed (b)(6), (b)(7)(c) depart (b)(6), (b)(7)(c) stateroom at 0300. Due to the lack of details offered by (b)(6), (b)(7)(c), and the vague definition of interpersonal relationship, USFF IG consulted with the MSC General Counsel's Office and relayed the allegation as described by (b)(6), (b)(7)(c). It was the General Counsel's opinion that the allegation as alleged by (b)(6), (b)(7)(c) did not raise to the level of a violation as defined by MSFSCINST 12710.1. Accordingly, the allegation that (b)(6), (b)(7)(c) engaged in an inappropriate relationship, a violation of MSFSCINST 12710.1 (Military Sealift Fleet Support Command Interpersonal Relationship Policy for Civilian Mariners) is **not substantiated**.

Recommendation: N/A

Allegation 9: That on an unknown date, (b)(6), (b)(7)(c), USNS SACAGAWEA, gave crew members inappropriate nicknames, a violation EEOC Notice 915.002 (Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors)³.

Standard:

EEOC Notice 915.002 (Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors)

The question of liability arises only after there is a determination that unlawful harassment occurred. Harassment does not violate federal law unless it involves discriminatory treatment on the basis of race, color, sex, religion, national origin, age of 40 or older, disability, or protected activity under the anti-discrimination statutes. Furthermore, the anti-discrimination statutes are not a "general civility code." Thus federal law does not prohibit simple teasing, offhand comments, or isolated incidents that are not "extremely serious." Rather, the conduct must be "so objectively offensive as to alter the 'conditions' of the victim's employment." The conditions of employment are altered only if the harassment culminated in a tangible employment action or was sufficiently severe or pervasive to create a hostile work environment. Existing Commission guidance on the standards for determining whether challenged conduct rises to the level of unlawful harassment remains in effect.

³ Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors is guidance provided by the U. S. Equal Employment Opportunity Commission (EEOC). The EEOC is responsible for enforcing federal laws regarding discrimination and harassment; DON employees filing EEO grievances are governed by applicable EEO regulation and not those of the DON.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) gave inappropriate nicknames to a crewmember, specifically calling a crewmember of Spanish descent “The Spaniard.” After consulting with USFF EEO, which provided that allegations of this nature must be made by the affected individual and not a third party, USFF IG made contact with the individual crewmember named by (b)(6), (b)(7)(c). That crewmember stated that he was not offended by the comments from (b)(6), (b)(7)(c). The crewmember was informed of the proper channels to file an EEO grievance by USFF IG.

Accordingly, the allegation that (b)(6), (b)(7)(c) gave crew members inappropriate nicknames, a violation of the U. S. Equal Employment Opportunity Commission Notice 915.002 (Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors) is **not substantiated**.

Recommendation: N/A

Allegation 10: That in June 2015, (b)(6), (b)(7)(c), USNS SACAGAWEA, exposed his genitalia to a female crewmember, thereby creating a sexual harassment incident, a violation of SECNAVINST 5300.26D (Department of the Navy (DON) Policy on Sexual Harassment).

Standard:

SECNAVINST 5300.26D (Department of the Navy (DON) Policy on Sexual Harassment)

7. Accountability. The rules in subparagraph 7a are regulatory orders and apply to all DON personnel individually and without further implementation. A violation of these provisions by military personnel is punishable in accordance with the Uniform Code of Military Justice (UCMJ), and is the basis for disciplinary action with respect to civilian employees. The prohibitions in subparagraph 7a apply to all conduct which occurs in or impacts a DOD working environment, as defined in enclosure (1). The reasonable person standard as defined in enclosure (1) shall be used to determine whether a violation of these provisions has occurred.

a. No individual in the DON shall:

- (1) Commit sexual harassment, as defined in enclosure (1)
- (2) Take reprisal action against a person who provides information on an incident of alleged sexual harassment;
- (3) Knowingly make a false accusation of sexual harassment; or
- (4) While in a supervisory or command position, condone or ignore sexual harassment of which he or she has knowledge or has reason to have knowledge.

Analysis and Finding:

(b)(6), (b)(7)(c) alleges that she informed (b)(6), (b)(7)(c) that (b)(6), (b)(7)(c) would wear shorts without underwear and would open his legs when she entered the Officer's Mess so that his scrotum would hang out the side of his shorts and believed that he only did this when she was present.

On 21 December 2016, USFF IG interviewed (b)(6), (b)(7)(c) who performed food service duties in the Officer's Mess. (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) coveralls had holes in them through which his underwear was at times visible, but stated that she believed the underwear exposure was unintentional and had never observed (b)(6), (b)(7)(c) expose his genitalia. (b)(6), (b)(7)(c), who at the time of these issues was a friend of (b)(6), (b)(7)(c), stated that she believed (b)(6), (b)(7)(c) spoke with (b)(6), (b)(7)(c) about the underwear being visible through (b)(6), (b)(7)(c) coveralls, asking him to instruct (b)(6), (b)(7)(c) to cover himself. (b)(6), (b)(7)(c) further testified that (b)(6), (b)(7)(c) told her that (b)(6), (b)(7)(c) "underwear or something" were showing through his coveralls. It was (b)(6), (b)(7)(c) belief that (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) did not like each other and that they were out to get each other.

On 22 March 2017, (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) never informed him that (b)(6), (b)(7)(c) was exposing his genitalia, rather he testified that (b)(6), (b)(7)(c) informed him that she didn't like the fact that (b)(6), (b)(7)(c) didn't zip his coveralls all the way up. (b)(6), (b)(7)(c) did acknowledge that (b)(6), (b)(7)(c) coveralls were in state of disrepair and informed him that new coveralls were available. (b)(6), (b)(7)(c) further testified that (b)(6), (b)(7)(c) wore gym shorts under his coveralls and that he never witnesses him expose himself.

On 24 March 2017, (b)(6), (b)(7)(c), the current SACAGAWEA (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) direct supervisor, testified that he heard through the rumor mill that (b)(6), (b)(7)(c) would sit on the bench and due to his wearing of baggy shorts without underwear, his genitalia would be exposed. (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) claimed (b)(6), (b)(7)(c) had exposed himself while (b)(6), (b)(7)(c) was (b)(6), (b)(7)(c) and that he had taken no action to correct the issue. (b)(6), (b)(7)(c) testified that he had never witnessed (b)(6), (b)(7)(c) expose himself.

On 21 April 2017, (b)(6), (b)(7)(c) testified that when he first arrived aboard SACAGAWEA, that (b)(6), (b)(7)(c) made a comment about (b)(6), (b)(7)(c) exposing himself through a hole in his coveralls pocket. (b)(6), (b)(7)(c) explained that the coveralls have a pocket with a manufactured hole that allows the wearer to access clothing underneath the coveralls. (b)(6), (b)(7)(c) stated that he was told that when (b)(6), (b)(7)(c) sits down or stands up that the pocket flexes in such a way that skin was visible. (b)(6), (b)(7)(c) who ate daily in the Officer's Mess with (b)(6), (b)(7)(c), testified that (b)(6), (b)(7)(c) would not wear an undershirt under his coveralls and had seen (b)(6), (b)(7)(c) with his coveralls unzipped but was aware that (b)(6), (b)(7)(c) was wearing a pair of shorts. (b)(6), (b)(7)(c) stated that he'd never seen (b)(6), (b)(7)(c) expose his genitalia, only his stomach when his coveralls had been unzipped.

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On 24 March 2017, (b)(6), (b)(7)(c) testified that he wears either dark blue or grey coverall's that may have a few rips or frays, but none that would lead to him exposing himself. (b)(6), (b)(7)(c) further testified that he had not exposed himself purposely or inadvertently to any crew member in his 27 years of employment with MSC.

The preponderance of the evidence reveals that (b)(6), (b)(7)(c) did not expose his genitalia to (b)(6), (b)(7)(c). While conflicting testimony was provided as to what state of disrepair (b)(6), (b)(7)(c) coveralls were in, three officers and one female steward all testified they never witnessed (b)(6), (b)(7)(c) expose himself. Additionally, (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) each testified that (b)(6), (b)(7)(c) only spoke to them about (b)(6), (b)(7)(c) underwear being exposed through holes in his coveralls. Accordingly, the allegation that (b)(6), (b)(7)(c) exposed his genitalia, a violation of SECNAVINST 5300.26D (Department of the Navy (DON) Policy on Sexual Harassment) is **not substantiated**.

Recommendation: N/A

Allegation 11: That on numerous occasions between 2014 and 2015, (b)(6), (b)(7)(c), (b)(6), (b)(7)(c), USNS SACAGAWEA, instructed a subordinate crew member to cut (b)(6), (b)(7)(c) hair in his stateroom during the duty day, a violation of Title 5 C.F.R. § 2635.705(b) (Use of official time).

Standard:

Title 5 C.F.R. § 2635.705 (Use of Official Time)

(b) *Use of a subordinate's time.* An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) instructed (b)(6), (b)(7)(c), a subordinate crew member, to cut (b)(6), (b)(7)(c) hair during (b)(6), (b)(7)(c) duty day. (b)(6), (b)(7)(c) is assigned to the Supply Department as a Supply/Utility (S/U) person, and performs food service and hospitality duties.

On 24 March 2017, (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) would cut his hair when (b)(6), (b)(7)(c) was on a scheduled break, and that it did not interfere with his assigned duties. (b)(6), (b)(7)(c) further testified that he compensated (b)(6), (b)(7)(c) for his services. In a 30 March 2017 telephone conversation, (b)(6), (b)(7)(c) stated that he occasionally cut (b)(6), (b)(7)(c) hair when his break schedule allowed. (b)(6), (b)(7)(c) stated that (b)(6), (b)(7)(c) had not ordered him to perform this duty and that he was compensated for his services each time.

The preponderance of the evidence reveals that (b)(6), (b)(7)(c) requested (b)(6), (b)(7)(c) to cut his hair during his daily breaks, and that (b)(6), (b)(7)(c) was compensated for those services.

Accordingly, the allegation that (b)(6), (b)(7)(c) misused a subordinate's time, a violation of Title 5 C.F.R. § 2635.705 (Use of Official Time) is **not substantiated**.

Recommendation: N/A

Allegation 12: That on an unknown date, (b)(6), (b)(7)(c), USNS SACAGAWEA, engaged in gender discrimination, a violation of OPNAVINST 5354.1F (Navy Equal Opportunity Policy).

Standard:

OPNAVINST 5354.1F (Navy Equal Opportunity Policy)

3. Applicability and Scope

a. The provisions of this instruction apply without regard to race, color, national origin, sex or religion within constraints of the law to all active duty Navy, Navy Reserve and assigned civilian personnel (not to supersede the provisions of paragraph 3b).

6. Policy

a. As stated in references (a), (b) and (d), it is Department of Defense (DoD) and DON policy to prohibit unlawful discrimination against persons or groups based on race, color, national origin, sex or religion and to prohibit SH. Service members shall be evaluated only on individual merit, fitness and capability. All Service members are entitled to an environment free from personal, social, or institutional barriers that prevent service members from rising to the highest levels of responsibility possible.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) made comments regarding improper disposal of feminine hygiene products as the cause of shipboard plumbing problems. Further clarification with (b)(6), (b)(7)(c) revealed that (b)(6), (b)(7)(c) was not directing inappropriate gender specific comments towards her; rather that (b)(6), (b)(7)(c) was attempting to identify the material that caused a plumbing obstruction.

Accordingly, clarification provided by (b)(6), (b)(7)(c) shows that (b)(6), (b)(7)(c), as the (b)(6), (b)(7)(c) was attempting to ascertain the nature of the plumbing blockage and not making comments there were discriminatory in nature. Accordingly, the allegation that (b)(6), (b)(7)(c) engaged in gender discrimination, a violation of OPNAVINST 5354.1F (Navy Equal Opportunity Policy) is **not substantiated**.

Recommendation: N/A

Allegation 13: That between December 2015 and October 2016, (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to conduct appropriate food operation inspections, a violation of COMSCINST 6000.1E (Military Sealift Command Medical Manual).

Standard:

COMSCINST 6000.1E (Military Sealift Command Medical Manual)

5. PEST CONTROL AND SANITATION. The MSO Shall:

b. Conduct on at least a monthly basis inspections of all food services spaces, storerooms, ship stores, and any other spaces that may be of concern to preclude the presence of a stored product pest, roaches, or rodents, in accordance with guidance provided by area preventive medicine units.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) failed to conduct monthly inspections of the food service areas between December 2015 and October 2016.

During his interview on 4 May 2017, (b)(6), (b)(7)(c) testified that he submitted his monthly inspections to the Master via email, as well as retaining a copy of the report in the MSO share drive folder. (b)(6), (b)(7)(c) testified that (b)(6), (b)(7)(c) did conduct monthly inspections and would discuss these inspections with him either by placing the report on the share drive or in person; (b)(6), (b)(7)(c) also testified that (b)(6), (b)(7)(c) completed monthly inspections. (b)(6), (b)(7)(c) provided USFF IG with unsigned, undated hard copies of these reports, however, no official documents related to the monthly inspections were located onboard SACAGAWEA.

The preponderance of the evidence, based on two Master's testimony, reveals that (b)(6), (b)(7)(c) did in fact conduct monthly inspections of the food service areas. While documentation supporting these inspections was missing, testimony provided by both (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) lend credence to the fact that (b)(6), (b)(7)(c) was indeed in compliance with applicable regulations. Accordingly, the allegation that (b)(6), (b)(7)(c) failed to conduct monthly food operation inspections, a violation of COMSCINST 6000.1E (Military Sealift Command Medical Manual) is **not substantiated**.

Recommendation: N/A

Allegation 14: That on an unknown date, (b)(6), (b)(7)(c), USNS SACAGAWEA, stored pornographic images on a U.S. Government computer system, a violation of GENADMIN MSG 031648Z Oct 11, DON CIO Acceptable Use Policy for Department of the Navy (DON) Information Technology (IT) Resources.

Standard:

GENADMIN MSG 031648Z Oct 11, DON CIO Acceptable Use Policy for Department of the Navy (DON) Information Technology (IT) Resources

F. To ensure the confidentiality, integrity, availability, and security of DON IT resources and information, users shall not:

(9) IAW Ref (B), use DON IT resources in a way that would reflect adversely on the DON. Such uses include pornography, chain letters, unofficial advertising, soliciting or selling except on authorized bulletin boards established for such use, violation of statute or regulation, inappropriately handling classified information and PII, and other uses that are incompatible with public service.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that it was brought to her attention that (b)(6), (b)(7)(c) computer contained pornographic material.

In an initial telephone conversation between USFF IG and (b)(6), (b)(7)(c), (b)(6), (b)(7)(c) stated that he found what he considered to be pornographic images stored in (b)(6), (b)(7)(c) share drive folder. In a subsequent interview on 24 March 2017, (b)(6), (b)(7)(c) testified that he found dozens of picture of bare-breasted women, and one picture (b)(6), (b)(7)(c) believed was a self-picture of (b)(6), (b)(7)(c) penis. On 21 April 2017, (b)(6), (b)(7)(c) testified that he found multiple pictures of penises in the access-restricted (b)(6), (b)(7)(c) folder, but did not recall seeing any additional pictures.

On 4 May 2017, when questioned by USFF IG about whether he had transferred pornographic material to the (b)(6), (b)(7)(c) folder, (b)(6), (b)(7)(c) responded, *"It probably has happened. I can't say it was done intentionally, but it probably has happened. And if it did happen, I take responsibility for it but that's just not customary because I've never had computer problems on any of the ships that I've been on except for this one"*.

On 11 April 2018, (b)(6), (b)(7)(c) was provided a Tentative Conclusion Letter, a redacted draft Report of Investigation, and a transcript of his testimony; (b)(6), (b)(7)(c) was offered 10 business days to provide comment. On 19 April 2018, (b)(6), (b)(7)(c) provided a written response in which he never denied that he placed pornographic images on a U.S. Government computer system; rather he acknowledged that he may have unintentionally uploaded photos from a private folder in the course of uploading galley inspection photos. (b)(6), (b)(7)(c) further offered that other personnel aboard SACAGAWEA had his computer password and access to the (b)(6), (b)(7)(c) folder, and they could have placed the pornographic images in the folder after he departed SACAGAWEA. Additionally, (b)(6), (b)(7)(c) offered that he was concerned that this allegation may have been made

in retaliation for filing complaints against three crewmembers during his time aboard SACAGAWEA.

USFF IG has determined that the passwords in question remained sealed in the (b)(6), (b)(7)(c) turnover package (b)(6), (b)(7)(c) provided the ship at the time of his departure from SACAGAWEA. Additionally, USFF IG determined that the individuals listed by (b)(6), (b)(7)(c) in a follow-up email, in which he alleges he submitted prior complaints against, suffered no disciplinary actions as a result of his complaints.

After considering (b)(6), (b)(7)(c) response, USFF IG finds that the preponderance of the evidence reveals (b)(6), (b)(7)(c) did store photographs which could be considered pornographic in nature on a U.S. Government computer device. (b)(6), (b)(7)(c) provided testimony in which he admitted that it was probable that he transferred photos of women and himself in stages of undress to his (b)(6), (b)(7)(c) share drive folder. Accordingly, the allegation that (b)(6), (b)(7)(c) stored pornographic images on a U.S. Government computer system, a violation of GENADMIN MSG 031648Z Oct 11, DON CIO Acceptable Use Policy for Department of the Navy (DON) Information Technology (IT) Resources is **substantiated**.

Recommendation: COMSC take appropriate action as deemed necessary.

Allegation 15: That in August 2016, (b)(6), (b)(7)(c), USNS SACAGAWEA, improperly brought a frozen tuna into the U.S. territorial waters of Hawaii aboard the SACAGAWEA, a violation of Title 9 C.F.R. § 94.11 (restrictions of importation of meat and other animal products from specified regions).

Standard:

Title 9 C.F.R. § 94.11 (Restrictions of importation of meat and other animal products from specified regions)

(a) The meat of ruminants or swine, and other animal products, and ship stores, airplane meals, and baggage containing such meat or animal products originating in any region listed as provided in paragraph (a)(2) of this section may not be imported into the United States unless the requirements in this section, in addition to other applicable requirements of chapter III of this title, are met. However, meat and meat products that meet the requirements of Title 9 C.F.R. § 94.11 (Restrictions of importation of meat and other animal products from specified regions) do not have to comply with the requirements of this section. As used in this section, the term “other animal product” means all parts of the carcass of any ruminant or swine, other than meat and articles regulated under part 95 or part 96 of this chapter.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) failed to properly dispose of a cut-up, frozen tuna he acquired in Fiji before arriving in the territorial waters of Hawaii. (b)(6), (b)(7)(c) testified that all foreign meat was required to be disposed of prior to SACAGAWEA's arrival in Hawaii.

While Title 9 C.F.R. § 94.11 offers restrictions on the importation of meat and animal products from specific regions, the U.S. Department of Agriculture Animal Product Manual (APM) provides the background, procedures, and regulatory actions to enforce the regulations governing the import and export of animals, animal products, and animal by-products into the United States. The APM further directs that the U.S. Customs and Border Protection (CBP) maintains primary control of commercial and noncommercial shipments at the nation's Ports of Entry, with CBP Agricultural Specialists and U.S. Fish and Wildlife Service (FWS) inspectors responsible for regulating the importation of meat products and wild game into the United States. A review of applicable regulations, and in consultation with a U.S. Fish and Wildlife Service wildlife inspector located in Hawaii, revealed that the importation of the tuna from Fiji is unrestricted.

While (b)(6), (b)(7)(c) was correct in her assertion that certain meats procured in foreign countries must be disposed of prior to arrival in Hawaii, this was not the case with respect to the tuna. The preponderance of the evidence reveals (b)(6), (b)(7)(c) did not violate Title 9 C.F.R. § 94.11 by bringing a cut-up, frozen tuna acquired in Fiji into the territorial waters of Hawaii. Accordingly, the allegation that (b)(6), (b)(7)(c) failed to properly dispose of a frozen tuna prior to entering the territorial waters of Hawaii, a violation of Title 9 C.F.R. § 94.11 (Restrictions of importation of meat and other animal products from specified regions) is **not substantiated**.

Recommendation: N/A

Allegation 16: That between April and September 2016, (b)(6), (b)(7)(c), USNS SACAGAWEA, failed to ensure a minimum of two-way separation of functions when using his assigned Government Commercial Purchase Card, a violation of NAVSUPINST 4200.94 (Department of Navy Policies and Procedures for the Implementation of Governmentwide Commercial Purchase Card Program (GCPC)).

Standard:

(1) NAVSUPINST 4200.94, Para. 4 (Managing Department of Navy Purchase Card Programs), Section e. (Using the Purchase Card), Subpart (3)(b)

(b) In order to protect the integrity of the process, a minimum two-way separation of functions is required when using the purchase card (i.e. one person making the purchase and one person accepting and receiving the supplies or services). If the cardholder is picking up the material at the contractor's location, the end user or designated receiving personnel should sign for final receipt. In the event the cardholder is the end user, another designated individual must sign the receipt.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) served as both the purchaser and receiver of goods when utilizing his Government Purchase Card. USFF IG requested the MSC GCPC Program Manager review six months of purchase orders in which (b)(6), (b)(7)(c) was a signatory. The MSC GCPC Program Manager reviewed 79 total purchase orders filed during this six-month period and found that the two-way separation of functions had occurred. The preponderance of the evidence reveals (b)(6), (b)(7)(c) maintained the two-way separation of functions. Accordingly, the allegation that (b)(6), (b)(7)(c) failed to utilize two-way separations while utilizing his GPC, a violation of NAVSUPINST 4200.94 (Dept of Navy Policies and Procedures for the Implementation of Governmentwide Commercial Purchase Card Program (GCPC)) is **not substantiated**.

Recommendation: N/A

Allegation 17: That between April and September (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) USNS SACAGAWEA, failed to ensure a minimum of two-way separation of functions when using his assigned Government Commercial Purchase Card, a violation of NAVSUPINST 4200.94 (Department of Navy Policies and Procedures for the Implementation of Governmentwide Commercial Purchase Card Program (GCPC)).

Standard:

NAVSUPINST 4200.94, Para. 4 (Managing Department of Navy Purchase Card Programs), Section e. (Using the Purchase Card), Subpart (3)(b)

(b) In order to protect the integrity of the process, a minimum two way separation of functions is required when using the purchase card (i.e. one person making the purchase and one person accepting and receiving the supplies or services). If the cardholder is picking up the material at the contractor's location, the end user or designated receiving personnel should sign for final receipt. In the event the cardholder is the end user, another designated individual must sign the receipt.

Analysis and Finding:

(b)(6), (b)(7)(c) alleged that (b)(6), (b)(7)(c) served as both the purchaser and receiver of goods when utilizing his Government Purchase Card. USFF IG requested the MSC GCPC Program Manager review six months of purchase orders in which (b)(6), (b)(7)(c) was a signatory. The MSC GCPC Program Manager reviewed 79 total purchase orders filed during this six month period and found that the two-way separation of functions had occurred. The preponderance of the evidence reveals (b)(6), (b)(7)(c) maintained the two-way separation of functions. Accordingly, the allegation that (b)(6), (b)(7)(c) failed to utilize two-way separations while utilizing his GPC, a violation of NAVSUPINST 4200.94 (Dept of Navy Policies and Procedures for the

Implementation of Governmentwide Commercial Purchase Cared Program (GCPC)) is **not substantiated**.

Recommendation: N/A

Emerging Allegations:

Emerging Allegation 1: That on 22 August 2016, (b)(6), (b)(7)(c) USNS SACAGWEA, split a purchase into multiple small value purchases in order to procure supplies under the micro-purchase threshold, a violation of the Federal Acquisition Regulation.

Standard:

(1) Federal Acquisition Regulation, Part 13 (Simplified Acquisition Procedures), Para. 13.003 (c)(2)

(2) Do not break down requirements aggregating more than the simplified acquisition threshold (or for commercial items, the threshold in subpart 13.5) or the micro-purchase threshold into several purchases that are less than the applicable threshold merely to—

- (i) Permit use of simplified acquisition procedures; or
- (ii) Avoid any requirement that applies to purchases exceeding the micro-purchase threshold.

Analysis and Finding:

During the review of SACAGAWEA purchase orders, MSC GCPC Program Manager discovered a split purchase. A split purchase occurs when a card holder splits one purchase into multiple purchases in order to keep the purchase price below the micro-purchase threshold.

Documents reveal (b)(6), (b)(7)(c) initiated two purchase requests for the purpose of ordering air filters from Camfil USA. The initial purchase request (PO #N23192-6208-S564), signed by (b)(6), (b)(7)(c) on 22 August 2016, itemized \$3,159.34 for air filters and \$336.00 for shipping and handling for a total of \$3,495.34; a hand written total of \$3,500.00 was placed in the purchase total block. The restocking of COSAL⁴ shortages was the listed justification for this order. A second purchase request with a hand written purchase order number (PO #N23192-6237-S665), signed by (b)(6), (b)(7)(c) on 22 August 2016, itemized \$67.34 for freight charges. The freight charges for PO # N23192-6208-S564 was the listed justification for this order. The invoice provided by Camfil USA, dated 19 August 2016, lists the cost of the air filters as \$3159.34 and \$408.00 for shipping for a total of \$3,567.34, \$67.34 above the initial purchase request. This

⁴ The Coordinated Shipboard Allowance List (COSAL) is a technical and management document, which lists the items required to achieve maximum, self-supporting capabilities for an extended period of time. The COSAL provides the ship with basic guidance for determining items that should be stocked.

second purchase order would constitute a split purchase as there was no other reason for this action than to generate a second charge for freight due to the Camfil USA invoice being above the \$3,500.00 micro-purchase threshold.

On 3 April 2017, (b)(6), (b)(7)(c) resigned from federal service without explanation. USFF IG attempted to make telephonic contact with (b)(6), (b)(7)(c) which met with negative results.

By splitting the purchase of air filters and its associated shipping cost into two orders, (b)(6), (b)(7)(c) exceeded the established \$3,500.00 purchase limit thereby exceeding the micro-purchase threshold. The preponderance of the evidence reveals that (b)(6), (b)(7)(c) initiated a second purchase order with the intent to circumvent the micro-purchase threshold of \$3,500.00. Accordingly, the allegation that (b)(6), (b)(7)(c) made two purchases with the intent of violating the established micro-purchase threshold, a violation of a violation of the Federal Acquisition Regulation) is **substantiated**.

Recommendation: COMSC take appropriate action as deemed necessary.

Emerging Allegation 2: That on 6 August 2016, (b)(6), (b)(7)(c), USNS SACAGWEA, purchased printed certificates from a printing service other than the Defense Logistics Agency-Document Services, a violation of NAVSUPINST 4200.99C (Department of the Navy Government-Wide Commercial Purchase Card Program Policy).

Standard:

NAVSUPINST 4200.99C (Department of the Navy Government-Wide Commercial Purchase Card Program Policy)

3. Proper Use. A proper purchase is any authorized purchase that was made in a correct amount under statutory, procurement, financial management, administrative, or other legally applicable requirements.

c. DON Directed Procurement Policy. DON directed procurement policy is to use automated purchasing systems (DOD EMALL, GSA Advantage, and VA.gov) to ensure compliance with Federal and DOD procurement and strategic sourcing requirements. Use of the GCPC must comply with the following DON directed strategic sourcing policy to the maximum extent practicable.

(5) Printing Services. CH shall purchase printing and duplication requirements and rental of duplication equipment from DLA-Document Services.

Analysis and Finding:

On 6 August 2016, (b)(6), (b)(7)(c) completed an MSC GCPC Purchase Request form in the amount of \$1,332.20 for printing services from Tiffany Publishing, a publishing company located in Norfolk, VA, which exclusively publishes Navy related certificates. (b)(6), (b)(7)(c)

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~~Any misuse or unauthorized disclosure may result in both civil and criminal penalties.~~

requested that Tiffany Publishing print Shellback Certificates, Golden Dragon Certificates, and Order of the Ditch Certificates which are presented to Sailors who complete specific sailing routes such as transiting the Panama or Suez Canals. Tiffany Publishing printed this order as requested with SACAGWEA receiving these materials on 10 September 2016.

On 3 April 2017, (b)(6), (b)(7)(c) resigned from federal service without explanation. USFF IG attempted to make telephonic contact with (b)(6), (b)(7)(c) with negative results.

While NAVSUPINST 4200.99C allows for printing service outside of government provided printing services with prior approval, no such approval was provided to the MSC GCPC Program Manager. The preponderance of the evidence reveals that (b)(6), (b)(7)(c) purchased printing materials from a printing company other than the required U.S. Government printing services without prior approval. Accordingly, the allegation that (b)(6), (b)(7)(c) failed to utilize U.S. Government printing services, a violation of NAVSUPINST 4200.99C (Department of the Navy Government-Wide Commercial Purchase Card Program Policy) is **substantiated**.

Recommendation: COMSC take appropriate action as deemed necessary.

Emerging Allegation 3: That on 6 August 2016, (b)(6), (b)(7)(c), USNS SACAGWEA, purchased printed certificates from a printing service other than the Defense Logistics Agency-Document Services, a violation of NAVSUPINST 4200.99C (Department of the Navy Government-Wide Commercial Purchase Card Program Policy)

Standard:

NAVSUPINST 4200.99C (Department of the Navy Government-Wide Commercial Purchase Card Program Policy)

3. Proper Use. A proper purchase is any authorized purchase that was made in a correct amount under statutory, procurement, financial management, administrative, or other legally applicable requirements.

c. DON Directed Procurement Policy. DON directed procurement policy is to use automated purchasing systems (DOD EMALL, GSA Advantage, and VA.gov) to ensure compliance with Federal and DOD procurement and strategic sourcing requirements. Use of the GCPC must comply with the following DON directed strategic sourcing policy to the maximum extent practicable.

(5) Printing Services. CH shall purchase printing and duplication requirements and rental of duplication equipment from DLA-Document Services.

Analysis and Finding:

On 31 August 2016, (b)(6), (b)(7)(c) completed an MSC GSPC Purchase Request form in the amount of \$161.50 for printing services from Tiffany Publishing, a publishing company located

in Norfolk, VA, which exclusively publishes Navy related certificates. (b)(6), (b)(7)(c) requested that Tiffany Publishing print Shellback Certificates, Golden Dragon Certificates, and Order of the Ditch Certificates which are presented to Sailors who complete specific sailing routes such as transiting the Panama or Suez Canals. Tiffany Publishing printed this order as requested with SACAGAWEA receiving these materials on 26 September 2016.

In his interview with USFF IG, (b)(6), (b)(7)(c) admitted that he was unaware of the requirement to utilize U.S. Government printing services, stating that it was common practice to order these certificates when requested.

On 11 April 2018, (b)(6), (b)(7)(c) was provided a Tentative Conclusion Letter, a redacted draft Report of Investigation, and a transcript of his testimony to the email address provided by the Military Sealift Command Marine Placement Division; (b)(6), (b)(7)(c) was offered 10 business days to provide comment. No response was received from (b)(6), (b)(7)(c).

While NAVSUPINST 4200.99C allows for printing service outside of government provided printing services with prior approval, no such approval was provided to the MSC GCPC Program Manager. The preponderance of the evidence reveals that (b)(6), (b)(7)(c) purchased printing materials from a printing company other than the required U.S. Government printing services without approval. Accordingly, the allegation that (b)(6), (b)(7)(c) failed to utilize U.S. Government printing services, a violation of NAVSUPINST 4200.99C (Department of the Navy Government-Wide Commercial Purchase Card Program Policy) is **substantiated**.

Recommendation: COMSC take appropriate action as deemed necessary.

Emerging Allegation 4: That on 4 November 2016, (b)(6), (b)(7)(c) (b)(6), (b)(7)(c) USNS SACAGAWEA, failed to change the combination to the controlled substances safe, a violation of COMSCINST 6000.1E (MILITARY SEALIFT COMMAND MEDICAL MANUAL).

Standard:

COMSCINST 6000.1E (MILITARY SEALIFT COMMAND MEDICAL MANUAL)

5. Receipt and Storage

c. Only the CSC will have the combination to the safe. The combination will be recorded and placed in a Security Container Information Envelope (SF 700, Pt. 2A), and held by the Communications Materials Security (CMS) Custodian or the Master. Changes to the combinations will be made at change of custody or when compromise of the combination occurs, but at least every 12 months.

Analysis and Finding:

On 19 October 2015, (b)(6), (b)(7)(c) was designated in writing as the Bulk/Working Stock Custodian for Controlled Substances for SACAGAWEA. Among the tasks outlined in this appointment was the task to change the combination to the safe containing controlled substances. In his 4 May 2017 interview with USFF IG, (b)(6), (b)(7)(c) testified that he did not change the combination to the safe when he took over as MSO in Chinhae, South Korea, stating the inability to find a locksmith to perform the task as the primary reason.

On 11 April 2018, (b)(6), (b)(7)(c) was provided a Tentative Conclusion Letter, a redacted draft Report of Investigation, and a transcript of his testimony; (b)(6), (b)(7)(c) was offered 10 business days to provide comment. On 19 April 2018, (b)(6), (b)(7)(c) provided a response in which he wrote that he contacted two separate SACAGAWEA Ships Communication Officers, as well as the Junior Supply Officer, in an attempt to have the safe combination changed; he found that no qualified locksmiths were aboard SACAGAWEA. (b)(6), (b)(7)(c) further wrote that he made attempts to elicit assistance while in port Hawaii and Camp Walker in Korea, but was unable to complete the process due to a one-day turn-around in Hawaii and conflicting schedules in Korea.

After considering (b)(6), (b)(7)(c) response, USFF IG finds that despite his efforts, the preponderance of the evidence reveals that (b)(6), (b)(7)(c) failed to change the combination to the controlled substances safe, a violation of COMSCINST 6000.1E (MILITARY SEALIFT COMMAND MEDICAL MANUAL) is **substantiated**.

Recommendation: COMSC take appropriate action as deemed necessary.

Additional Issues:

Additional Issue 1: Missing Narcotics

On 3 December 2016, (b)(6), (b)(7)(c) reported to MSC Force Medical that one bottle (100 pills) of Diazepam (5mg), a narcotic, was discovered missing from the safe aboard SACAGAWEA which held controlled substances. (b)(6), (b)(7)(c) reported that the (b)(6), (b)(7)(c) discovered the controlled substances safe unsecured in the medical spaces. (b)(6), (b)(7)(c) further reported that only he and the departed MSO had the combination to the safe, and that the SF700 Pt. 2A was still sealed in an envelope in the Masters safe. This issue was transferred to USFF IG due to an ongoing investigation aboard SACAGAWEA following a decision by the Naval Criminal Investigative Service (NCIS) not to investigate this incident.

In response to this issue, USFF IG obtained relevant instructions, gangway logs, shipping documents, Controlled Substances Inventory Board Appointment letters, Controlled Substances Inventory Reports, and conducted interviews with the SACAGWEA Master, Chief Mate and Medical Service Officer.

A review of documentary evidence reveals that on 4 November 2016, (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) in preparation of (b)(6), (b)(7)(c) departure, conducted a joint inventory of controlled substances

aboard SACAGAWEA and verified that all controlled substances, including 100 pills of Diazepam (5mg), were present and accounted for. This inventory was signed by (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) and acknowledged by (b)(6), (b)(7)(c).

In his testimony to USFF IG, (b)(6), (b)(7)(c) testified that he and (b)(6), (b)(7)(c) conducted a joint inventory and accounted for each item before placing them back in the safe and securing the lock with (b)(6), (b)(7)(c) presenting a sealed envelope containing the safe's combination to (b)(6), (b)(7)(c) for turnover to the incoming MSO; (b)(6), (b)(7)(c) corroborated this sequence of events. (b)(6), (b)(7)(c) retained control of this turnover packet and placed it in his safe until such time as the oncoming MSO arrived aboard SACAGAWEA. The combination to the safe was not changed at this time.

Testimony provided by (b)(6), (b)(7)(c) reveals that he entered the medical office space to gather a report in response to a data call from MSC Force Medical when he noticed the door to the safe ajar. (b)(6), (b)(7)(c) testified that he notified (b)(6), (b)(7)(c) of the breach, and upon (b)(6), (b)(7)(c) orders, conducted an immediate inventory of the safe. (b)(6), (b)(7)(c) gathered the remaining controlled substances and presented them and the still sealed envelope, given to him by (b)(6), (b)(7)(c), to (b)(6), (b)(7)(c) to be placed in the Master's safe until the new MSO arrived. (b)(6), (b)(7)(c) confirmed that the envelope was still sealed when he received it from (b)(6), (b)(7)(c).

While (b)(6), (b)(7)(c) and (b)(6), (b)(7)(c) provided testimony in which they believe (b)(6), (b)(7)(c) remained on SACAGAWEA for a couple of days following the inventory, (b)(6), (b)(7)(c) testified that he left the ship immediately following the inventory. Documentary evidence would indicate that (b)(6), (b)(7)(c) left the same day as the inventory, as the Controlled Substance Inventory Report is dated 4 November 2016 and the gangway log shows (b)(6), (b)(7)(c) permanently departed SACAGAWEA at 1505 on 4 November 2016; (b)(6), (b)(7)(c) name was removed from subsequent gangway logs with no further notations that he again boarded SACAGAWEA.

USFF IG was unable to determine what ultimately happened to the missing Diazepam and is unable to ascertain who accessed the controlled substances safe as (b)(6), (b)(7)(c) had departed SACAGAWEA; both copies of the combination were found to be in sealed envelopes.

USFF IG recommends MSC take the following actions with regard to securing controlled substances aboard MSC vessels:

(b)(5)

(b)(5)

3) Provide training to ships Masters and MSO as to their responsibilities in regards to securing controlled substances.

Additional Issue 2: Improper Amount and/or Accuracy of Time Keeping

(b)(6), (b)(7)(c) made reference to “fraudulent” and/or inaccurate time keeping aboard SACAGAWEA. However, due to insufficient details to pursue as individual allegations these issues have been referred to the USFF IG Assessment and Evaluations Team for inclusion in the February 2018 Command Inspection of Military Sealift Command.